IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

WEDNESDAY, THE THIRTEENTH DAY OF OCTOBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

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WRIT PETITION No.9244 of 2004

Between:

Kali Sailu, S/o. Kali Beeraiah, aged 50 years, Occ: Agriculture,
R/o. Bairanpalli Village, Maddoor Mandal, Warangal District.

..... PETITIONER

AND

1 The Mandal Revenue Officer, Maddoor Mandal, Warangal District.
2 The Mandal Revenue Additional Inspector, Maddoor Mandal,

Warangal District.
3 Smt. Devaraya Narasamma, W/o. Uppalayya,
R/o. Bairanpally Village, Maddoor Mandal, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ of Mandamus or any other appropriate Writ or Writs, Order or Direction, declaring and setting aside the memo dt.7-5-2004 in No. ARI/NDS/2004 on the file of the 2nd Respondent as illegal, arbitrary without jurisdiction and contrary to the provisions of A.P. Water, Land and Trees Act, 2002.

Counsel for the Petitioner: MR.K.RAGHUVEER REDDY

Counsel for the Respondent Nos.1 and 2: GP FOR REVENUE

Counsel for the Respondent No.3: None appeared

The Court made the following:

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ORDER:

The petitioner is owner of agricultural land in Survey No.266/A 2 and 266/E 2 situated at Bairanpalli village of Maddoor Mandal in Warangal District. He is cultivating his land by using water from the bore well, which he drilled in his land. The Mandal Revenue Additional Inspector, second respondent herein, by impugned memo dated 07.05.2004 directed the petitioner not to draw any water from the bore well on the ground that the third respondent herein gave a complaint to the effect that the water channel in her bore well has dried up due to the drilling of bore well by the petitioner. The order is assailed in the writ petition.

Though the interlocutory application being WPMP No.11874 of 2004 is listed, the matter was heard finally with the consent of learned Counsel for the petitioner and learned Government Pleader for Revenue and being disposed of.

As per provisions of A.P. Water, Land and Trees Act, 2002, the competent Authority to seize the bore well and pass order under the Act is Mandal Revenue Officer but Mandal Revenue Inspector or Panchayat Secretary are not vested with any powers. A reference may be made to the judgment of this Court **Ellaturu Siddaiah v. Revenue Divisional Officer, Cuddapah** wherein it is held as under:

A person desiring to dig a new well of any kind in his premises has to approach appropriate authority by making an application in Form 2 for permission. The authority is defined under Section 2(1). The authority competent to grant permission is Mandal level authority by reason of delegation of powers under Section 33 of the Act. The Village Secretary is not competent to grant any permission.

In view of the decision of this Court, the impugned order issued by the Mandal Revenue Additional Inspector, the second respondent, cannot be sustained. The same is accordingly set aside. However, liberty is given to the first respondent to take appropriate action in this matter in accordance with law.

The writ petition, with the above observations and directions, is allowed. No order as to costs.

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October 13, 2004. **V.V.S. RAO, J**

YS

Rule Nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Wednesday, the thirteenth day of October, 2004.

To

1 The Mandal Revenue Officer, Maddoor Mandal, Warangal District.
2 The Mandal Revenue Additional Inspector, Maddoor Mandal,

Warangal District.
3 Two CCs to the Government Pleader for Revenue, High Court

Buildings, Hyderabad (O.U.T)

4 Two CD copies.